

U.S. Department of Justice



United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

September 29, 2023

VIA ECF

The Honorable John P. Cronan
United States District Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: Cattenhead-Folk v. United States of America, 21-cv-9552 (JPC)

Dear Judge Cronan:

This Office represents defendant United States of America (the “Government”) in the above-referenced action brought by plaintiff Shaniqua S. Cattenhead-Folk (“Plaintiff”) under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671 *et seq.* (“FTCA”), arising from a motor vehicle-pedestrian accident. The Government writes, with Plaintiff’s consent, to respectfully request an order reopening fact discovery for the limited purpose of conducting the deposition of Special Agent (“SA”) Darren Brock, a United States Secret Service employee with personal knowledge relating to the accident.

Discovery in this action closed on April 7, 2023. See Order, dated Feb. 23, 2023 (ECF No. 50). On August 7, 2023, the parties participated in a settlement conference before Magistrate Judge Netburn which was unsuccessful. See Minute Entry, dated Aug. 7, 2023; Order, dated Aug. 8, 2023 (ECF No. 58). Subsequently, the Court set a trial date for February 20, 2024, and also set November 20, 2023, as the deadline to file any motions *in limine*, with any opposition to be filed by December 11 and any reply to be filed by December 18, and also set a deadline of January 22, 2024, to file the joint pretrial order. See Pretrial Order, dated Aug. 25, 2023 (ECF No. 61).

On the date of the accident, SA Brock was operating the vehicle directly in front of the vehicle involved in the accident and observed Plaintiff in the crosswalk immediately before the collision. The Government’s interrogatory responses, which were served on January 31, 2022, identified SA Brock as a “person who has personal knowledge of the facts and circumstances of this case” and someone that the Government “intend[s] to call as a witness at the time of trial.” However, SA Brock was not listed in the Government’s initial disclosures. This case was originally filed in the Eastern District of New York and the U.S. Attorney’s Office for the Eastern District of New York prepared the initial disclosures before the case was transferred to this district. Unfortunately, this Office did not realize that SA Brock was not included in the Government’s initial disclosures until recently. SA Brock has not been deposed in this action.

On September 19, 2023, counsel for the Government served amended initial disclosures on Plaintiff which added SA Brock as an individual likely to have discoverable information that the Government would use to support its claims or defenses. On September 22, the undersigned had a phone call with Plaintiff’s counsel to discuss this amendment and offered to produce SA

Brock, subject to the Court's permission, for a deposition given his omission from the Government's initial disclosures. On September 26 and 27, Plaintiff's counsel sent emails to the undersigned stating that Plaintiff would like to depose SA Brock and would not object to the Government calling SA Brock as a trial witness.

The parties are in the process of identifying potential dates for SA Brock's deposition. Therefore, with Plaintiff's consent, the Government respectfully requests that the Court reopen fact discovery until November 20, 2023, for the sole purpose of permitting Plaintiff's deposition of SA Brock. We believe that there is good cause to reopen discovery for this limited purpose to ensure a full and fair adjudication of this case on the merits. See Fed. R. Civ. P. 16(b). SA Brock's deposition will not affect any of the pretrial dates or deadlines and will not impact the trial schedule.

We thank the Court for its consideration of this request.

Respectfully,

DAMIAN WILLIAMS
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Cc: Michael Krigsfeld, *Counsel for Plaintiff* (by ECF)

The request is granted. Plaintiff shall depose SA Brock by November 20, 2023. The Clerk of Court is respectfully directed to close Docket Number 63.

SO ORDERED.
Date: October 2, 2023
New York, New York


JOHN P. CRONAN
United States District Judge